

**FIFTY-FIFTH DAY**  
(Tuesday, May 2, 1989)

The Senate met at 11 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Ratliff, Santiesteban, Sims, Tejada, Truan, Uribe, Washington, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Delmar M. Dabney, The Cathedral in the Pines, Beaumont, offered the invocation as follows:

Our Heavenly Father, standing in these hallowed halls, surrounded as we are by the pictures of countless men and women, many of whom are now in Your eternal presence, we are reminded of the words of the writer of the Hebrews. Speaking of one of the heroes of the faith, he said, "He being dead still speaks."

He had been describing the quality of the life, the righteous life of that hero. It had been of such impact, in his living, that it had carried over through the centuries following his death.

Every day, in this Chamber, there meet together men and women with a similar opportunity. They have been selected by the electorate of this State to exercise that authority of leadership that finds its source in You! How they rule will be of such impact that long after many of them are gone, their lives and their deeds will live after them. Grant them the wisdom and the moral stamina to voice and vote for those laws that will reflect Your love and Your care for every human being.

We thank You for the privilege of being citizens of this sovereign State of Texas! We thank You for our elected and appointed officials.

We pray You will help us to express our appreciation for their dedication to truth and justice and to stand with them as they resist those pressures which would make them less than You intend for them to be.

For today, I ask for Your wisdom to guide, for Your love to motivate, and for Your spirit to strengthen them in their action.

These things we ask in the name of Him who loves us and who gave Himself for us. Amen and amen!

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

H.C.R. 17	H.C.R. 193
H.C.R. 42	H.C.R. 197
H.C.R. 48	H.C.R. 214
H.C.R. 60	H.B. 82
H.C.R. 61	H.B. 171
H.C.R. 67	H.B. 264
H.C.R. 80	H.B. 349

H.C.R. 90	H.B. 361
H.C.R. 94	H.B. 413
H.C.R. 137	H.B. 575
H.C.R. 142	H.B. 594
H.C.R. 154	H.B. 769
H.C.R. 155	H.B. 1168
H.C.R. 183	H.B. 1400

## MESSAGE FROM THE HOUSE

House Chamber  
May 2, 1989

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 191.** Relating to prohibited provisions in automobile rental agreements; providing a penalty. (As substituted and amended)

**S.B. 458.** Relating to the inclusion of the services of certain professional counselors in health insurance coverage.

**S.B. 66.** Relating to the assignment of visiting judges.

**S.B. 745.** Relating to the authority of the Texas Board of Health to pay Medical Advisory Board members for their professional consultation services.

**S.B. 194.** Relating to employee benefits for certain employees of the Texas Department of Human Services.

**S.B. 734.** Relating to access by the Texas Employment Commission to criminal history record information of certain applicants for employment. (As amended)

**S.C.R. 131.** Honoring Barbara Jean White.

**H.B. 18.** Relating to health care, including the office of rural health care, surveys of hospitals and physicians, health education enrollments, emergency hospital patient transfers, liability for the provision of medical care, periodic payment of future damages, the provision of medical care to low-income and indigent persons, medical education, and professional liability insurance for physicians and other health care providers; providing civil penalties.

**H.B. 312.** Relating to the membership of the Texas Board of Licensure for Nursing Home Administrators.

**H.B. 362.** Relating to the commercialization of new and improved products; creating the product development commercialization fund.

**H.B. 414.** Relating to the frequency with which an election for the incorporation of certain general-law municipalities may be held.

**H.B. 428.** Relating to a reduced oil production tax rate for oil from certain enhanced recovery projects; providing a civil penalty.

**H.B. 433.** Relating to the authority of the Commission on Law Enforcement Officer Standards and Education to require county sheriffs to attend law enforcement education courses.

**H.B. 435.** Relating to financing surplus lines insurance premiums.

**H.B. 459**, Relating to the offense of failure to identify oneself to a peace officer; providing penalties.

**H.B. 613**, Relating to creation of the Texas Rural Economic Development Fund and assistance to rural Texas businesses.

**H.B. 759**, Relating to notice to a voter whose absentee mail ballot is rejected.

**H.B. 862**, Relating to adoption of the Uniform Vendor and Purchaser Risk Act.

**H.B. 869**, Relating to polygraph examinations of police officers and fire fighters in certain cities.

**H.B. 972**, Relating to the penalty for the offense of tampering with a consumer product and to the creation of the offense of threatening to tamper with a consumer product.

**H.B. 995**, Relating to handling, storage, and use of flammable liquids at retail service stations.

**H.B. 1044**, Relating to employee training and minimum accreditation standards for training programs for food service workers.

**H.B. 1073**, Relating to shift differential pay for fire fighters and police officers in certain municipalities.

**H.B. 1083**, Relating to regulation of out-of-state group accident and health insurance coverage.

**H.B. 1098**, Relating to the issuance of cease and desist orders against unauthorized insurers and persons engaged in an insurance business by the commissioner of insurance.

**H.B. 1108**, Relating to the jurisdiction of the small claims court in certain counties.

**H.B. 1164**, Relating to the payment of discharge money to an inmate of the Texas Department of Corrections.

**H.B. 1193**, Amending Section 42.12 of the Penal Code relating to vicious dogs.

**H.B. 1345**, Relating to income eligibility for medical assistance and the provision and payment of hospital and physician services to Medicaid recipients.

**H.B. 1475**, Relating to the regulation of certain continuing care facilities.

**H.B. 1490**, Relating to the authority of municipalities to remove or demolish substandard buildings.

**H.B. 1603**, Relating to political funds reporting requirements in connection with certain political club meetings.

**H.B. 1677**, Relating to the use of sealed ballot boxes in absentee voting.

**H.B. 1768**, Relating to a preference for American steel and steel products in certain contracts for materials awarded by the State Department of Highways and Public Transportation.

**H.B. 1874**, Amending Chapter 271, Subchapter C of the Local Government Code, entitled The Certificate of Obligation Act.

**H.B. 1995**, Relating to the sale of insurance policies of insurers placed in supervision, conservatorship, or receivership.

**H.B. 2301**, Relating to the appointment of the board of directors of an appraisal district.

**H.B. 2528**, Relating to exempting from the sales and use taxes purchases made by certain joint research and development ventures as defined by 15 U.S.C. Section 4301.

**H.B. 2853**, Relating to the establishment of Central Texas University as a four-year coeducational institution of higher education; granting the power of eminent domain.

**H.C.R. 232**, Honoring the Perry family of Haskell County.

**H.C.R. 234**, Honoring Parents for Pride.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 95**. The following have been appointed on the part of the House: Berlanga, Chair; Glossbrenner, Luna of Bexar, Colbert, Arnold.

The House has concurred in Senate amendments to the following House Bills by non-record votes:

**H.B. 1417**

**H.B. 239**

**H.B. 1271**

The House has concurred in Senate amendments to **H.B. 1035** by a record vote of 142 Ayes, 1 Nay, 1 Present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### REPORTS OF STANDING COMMITTEES

Senator Caperton submitted the following report for the Committee on Finance:

**S.B. 1701**

**S.B. 1026**

**S.B. 1467**

**C.S.S.B. 1235**

**C.S.H.B. 1155**

**C.S.S.B. 881**

Senator Montford submitted the following report for the Committee on State Affairs:

**H.B. 163**

**S.B. 597**

**S.B. 596**

**S.B. 1775**

**H.B. 800**

**H.B. 602**

**H.B. 2095**

**H.B. 1632**

**H.B. 487**

**H.B. 772**

**H.B. 2551**

**C.S.S.B. 1204**

**C.S.S.B. 958****C.S.S.B. 912**

Senator Glasgow submitted the following report for the Committee on Jurisprudence:

**S.B. 1742****S.B. 1271****H.B. 202****H.B. 660****H.B. 625****C.S.S.B. 1357****C.S.S.B. 1722****C.S.S.B. 1070****C.S.S.B. 1431**

#### **SENATE BILLS AND RESOLUTIONS ON FIRST READING**

On motion of Senator Haley and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

**S.C.R. 135** by Haley State Affairs  
Directing the State Department of Highways and Public Transportation, in cooperation with the Texas Historical Commission, to identify the present-day disposition of the Old San Antonio Road.

**S.B. 1784** by Brooks Health and Human Services  
Relating to the review of investigations and complaints by the Office of Youth Care Investigations.

**S.B. 1785** by Brooks Health and Human Services  
Relating to the Texas Natural Death Act.

**S.B. 1786** by Armbrister Health and Human Services  
Relating to the regulation of the manufacture and sale of certain foods, drugs, devices, and cosmetics; providing penalties.

**S.B. 1787** by Brown Intergovernmental Relations  
Relating to the establishment of career patrolman positions in a municipality with a population of 1.5 million or more.

**S.B. 1788** by Brown Jurisprudence  
Relating to the liability of persons for the evacuation of others from a disaster area.

**S.B. 1789** by Brown State Affairs  
Relating to reestablishment of service credit in the Employees Retirement System of Texas.

**S.B. 1790** by Brown Health and Human Services  
Relating to continuing education requirements for peace officers and to exempting certain honorably retired officers of the Department of Public Safety from those requirements.

**S.B. 1791** by Leedom State Affairs  
Relating to the granting of certain additional authority to the State Highway and Public Transportation Commission and the State Department of Highways and Public Transportation for the award of highway improvement contracts in cases of emergency.

**S.B. 1792** by Dickson Economic Development  
Relating to transfer of an employer's experience rating for unemployment compensation taxes.

**S.B. 1793** by Dickson Economic Development  
Relating to a disqualification for unemployment compensation benefits based on the receipt of certain lump-sum retirement benefits or severance benefits.

**S.B. 1794** by Parker Natural Resources  
Relating to the terms of directors of the Port of Port Arthur Navigation District.

**S.B. 1795** by Parker Health and Human Services  
Relating to the provision of nursing homes or related institutions by a health facilities development corporation.

**S.B. 1796** by Sims Natural Resources  
Relating to payment for raw milk.

**S.B. 1797** by Krier Finance  
Relating to an emergency appropriation to certain institutions of public higher education for the Texas academic skills program.

**S.R. 556** by Johnson Finance  
Requesting and urging the Conference Committee on **S.B. 222** to include in the Conference Committee Report an appropriation in the sum of \$35,000,000 to the Central Education Agency.

#### **HOUSE BILLS AND RESOLUTIONS ON FIRST READING**

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

**H.C.R. 151**, To Committee on Health and Human Services.

**H.C.R. 182**, To Committee on State Affairs.

**H.B. 1265**, To Committee on Intergovernmental Relations.

**H.B. 1561**, To Committee on Economic Development.

**H.B. 1587**, To Committee on Intergovernmental Relations.

**H.B. 1788**, To Committee on Intergovernmental Relations.

**H.B. 2280**, To Committee on Criminal Justice.

**H.B. 2619**, To Committee on Finance.

**H.B. 3070**, To Committee on Natural Resources.

#### **CO-AUTHOR OF SENATE BILL 619**

On motion of Senator Truan and by unanimous consent, Senator Zaffirini will be shown as Co-author of **S.B. 619**.

#### **CO-AUTHORS OF SENATE BILL 780**

On motion of Senator Harris and by unanimous consent, Senators Johnson, Brooks and Santiesteban will be shown as Co-authors of **S.B. 780**.

#### **CO-AUTHOR OF SENATE BILL 967**

On motion of Senator Tejeda and by unanimous consent, Senator Zaffirini will be shown as Co-author of **S.B. 967**.

#### **CO-AUTHOR OF SENATE BILL 1334**

On motion of Senator Armbrister and by unanimous consent, Senator Zaffirini will be shown as Co-author of **S.B. 1334**.

**GUEST PRESENTED**

Senator Truan was recognized and presented Dr. Al Smith of Lyford.

The Senate welcomed Dr. Smith, a participant in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, and expressed appreciation for his contributions today.

**GUESTS PRESENTED**

The President recognized the presence of Dr. Bill Ross of Dallas.

Dr. Ross, having served many times as a "Capitol Physician for the Day," was welcomed by his friends in the Senate.

Senator Brooks introduced Dr. Marion Zetzman, a colleague of Dr. Ross at Southwestern Medical School, University of Texas Health Science Center, Dallas.

The Senate welcomed Dr. Zetzman.

**SENATE RESOLUTION 553**

Senator Johnson offered the following resolution:

**S.R. 553**, Recognizing May 1-6, 1989, as Texas Nurses Week and May 6, 1989, as National Nurses Day.

The resolution was read and was adopted viva voce vote.

**SENATE RESOLUTION 551**

Senator Haley offered the following resolution:

**S.R. 551**, Declaring May, 1989, as Texas Physical Fitness and Sports Month.

The resolution was read and was adopted viva voce vote.

**GUESTS PRESENTED**

Senator Haley introduced Dave Woods of Highland Park Elementary School, Austin, honored by the Texas Association for Health, Physical Education, Recreation and Dance as the Physical Education Teacher of the Year, and Dr. Carolyn Mitchell of the Stephen F. Austin State University Physical Education Department and past-president of the Texas Association for Health, Physical Education, Recreation and Dance.

The Senate welcomed these guests.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas  
April 24, 1989

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE  
SEVENTY-FIRST LEGISLATURE, REGULAR SESSION:

Pursuant to Article III, Section 5 of the Texas Constitution, I hereby designate as

**S.B. 85**, Relating to the making of payments to a crime stoppers program as a condition of probation.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### GUEST PRESENTED

The President introduced his guest, Dr. Frank E. Vandiver, Director of Mosher Institute for Defense Studies at Texas A&M University.

The Senate welcomed this distinguished educator.

#### SENATE BILL 600 ON SECOND READING

Senator Lyon moved to suspend the regular order of business to take up for consideration at this time:

**S.B. 600**, Relating to the authority of a public utility to self-insure against certain losses and to the consideration of those costs in determining rates.

The motion prevailed by the following vote: Yeas 22, Nays 8.

Yeas: Armbrister, Bivins, Brooks, Brown, Carriker, Dickson, Glasgow, Green, Haley, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Uribe, Whitmire.

Nays: Barrientos, Caperton, Edwards, Parmer, Tejeda, Truan, Washington, Zaffirini.

Absent: Harris.

The bill was read second time.

Senator Lyon offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **S.B. 600** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Article VI, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Section 41B to read as follows:

Sec. 41B. SELF-INSURANCE. (a) A public utility may self-insure all or a portion of its potential liability or catastrophic property loss, including windstorm, fire, and explosion losses.

(b) In computing a utility's reasonable and necessary expenses under Subsection (c) of Section 41 of this Act, the regulatory authority shall allow as a necessary expense the funds credited to reserve accounts for the self-insurance, to the extent the regulatory authority finds it in the public interest. After the reserve account is established, the regulatory authority shall consider if the reserve account has a surplus or shortage in determining the utility's rate base. A surplus in the reserve account will exist if the charges against the reserve account are less than the funds credited to the reserve. A shortage in the reserve account will exist if the charges against the account are greater than the funds credited to the reserve. The regulatory authority shall subtract any surplus from and add any shortage to the rate base.

(c) The regulatory authority shall determine reasonableness under Subsection (b) of this section from information provided at the time the self-insurance plan and reserve account are established.

(d) The commission shall adopt rules governing self-insurance under this section.

(e) The allowance for self-insurance under this Act for ratemaking purposes will not be applicable to nuclear plant investment.

SECTION 2. This Act takes effect September 1, 1989.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Caperton offered the following amendment to Floor Amendment No. 1:

**Floor Amendment**

Amend Amendment No. 1 as follows:

On page 1, line 12 add the following after the word "losses":

The commission shall approve a self-insurance plan under this section if it finds that the coverage is in the public interest and the plan is a lower cost alternative to purchasing commercial insurance, considering all costs, including any tax implications, and that ratepayers will receive the benefits of that saving.

The amendment was read.

On motion of Senator Caperton and by unanimous consent, the amendment to Floor Amendment No. 1 was withdrawn.

Senator Truan offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 2**

Amend Amendment No. 1 as follows:

On page 1, line 12, add the following after the word "losses":

which could not have been reasonably anticipated and included under operating and maintenance expenses.

The amendment was read and was adopted viva voce vote.

Senator Caperton offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 3**

Amend Amendment No. 1 as follows:

At the end of the sentence beginning on line 9, page 1, add the following after the word "losses":

The commission shall approve a self-insurance plan under this section if it finds that the coverage is in the public interest and the plan is a lower cost alternative to purchasing commercial insurance, considering all costs, including any tax implications, and that ratepayers will receive the benefits of that saving.

The amendment was read and was adopted viva voce vote.

Senator Parmer offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 4**

Amend Amendment No. 1 by adding the following to the sentence beginning on line 4, page 2:

and upon the filing of each rate case by a utility that has such a fund

The amendment was read and was adopted viva voce vote.

Senator Dickson offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 5**

Amend Amendment No. 1 by adding to the sentence beginning on page 2, line 4, the following: "and shall review the reserve on a regular and periodic basis at the expense of the utility company."

The amendment was read and was adopted viva voce vote.

Senator Edwards offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 6**

Amend Amendment No. 1 on page 2, by amending subsection (e) to read as follows:

(e) This section shall not apply to any nuclear energy facility.

The amendment was read and was adopted viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment was adopted viva voce vote.

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**RECORD OF VOTES**

Senators Edwards, Parmer, Truan and Washington asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**MOTION TO PLACE**

**SENATE BILL 600 ON THIRD READING**

Senator Lyon moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 600 be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 8. (Not receiving four-fifths vote of Members present)

Yeas: Armbrister, Bivins, Brooks, Brown, Carriker, Dickson, Glasgow, Green, Haley, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Ratliff, Santiesteban, Sims, Uribe, Whitmire.

Nays: Barrientos, Caperton, Edwards, Parmer, Tejeda, Truan, Washington, Zaffirini.

Absent: Harris.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 2, 1989

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**S.J.R. 4**, Proposing a constitutional amendment authorizing jury instructions on good time and eligibility for parole and mandatory supervision.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**CONGRATULATORY RESOLUTIONS**

**H.C.R. 232** - (Carriker): Extending congratulations to the Perry family of Haskell County.

**H.C.R. 234** - (Caperton): Honoring Parents for Pride of Georgetown for the contributions the group has made to Texas' war against drug and alcohol abuse.

**S.R. 550** - By Haley: Extending congratulations to David Hailey on being named a recipient of the 1989 Beneficial Community Service Scholarship and commending him for his superlative community service work.

**S.R. 552** - By Carriker: Expressing appreciation to State Trooper Jerry Tawater for his exemplary performance of his duties.

**S.R. 554** - By Brown: Extending congratulations to Miss Merry "Bumpy" Brown for her many years of dedicated professional service to the students and teachers of Texas.

**S.R. 555** - By Santiesteban: Extending congratulations to the El Paso Mission Trail Association for their reenactment of an historic event that took place 391 years ago on Texas soil.

**ADJOURNMENT**

On motion of Senator Brooks, the Senate at 1:48 p.m. adjourned until 11:00 a.m. tomorrow.

**APPENDIX**

Filed with Secretary of State  
(May 2, 1989)

**H.C.R. 90**  
**H.C.R. 142**